

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

In re:  
Complaint of Judicial Misconduct

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\*No. 06-17-90009  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”). The complaint centers on a petition for a certificate of appealability (“COA”) that the complainant filed in this court. The complainant charges that the subject judge conspired with non-judicial court personnel to “impede Certificate of Appealability process” because the order denying his initial COA application did not identify a panel.

Because this circuit’s Chief Judge is named in this complaint, the matter was referred to the undersigned pursuant to 28 U.S.C. § 351(c), which provides that a judicial complaint against a chief judge be transmitted “to that circuit judge in regular active service next senior in date of commission.” Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that, where a chief judge is disqualified, his or her duties “must be assigned to the most-senior active circuit judge not disqualified.”

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he or she concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complainant has filed sixteen judicial complaints in this court in little more than three years. He has filed countless challenges to his convictions in the district court, and at least sixteen appeals in this court. The allegation he now makes is frivolous: COA applications in this court go to a single judge, not a panel, and the single judge is not identified in the order. The complainant has filed numerous COA

applications in this court, and is well aware of this court's procedures. And the panel to whom his application for rehearing in banc of the single-judge ruling on his initial motion was assigned was identified in the order denying en banc review. Thus, the complainant has identified no cognizable judicial misconduct. Because this allegation does not identify conduct prejudicial to the effective and expeditious administration of the business of the courts, the complaint is subject to summary dismissal pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant's allegations against court personnel need not be addressed herein, as conduct by judicial employees other than judges is not reachable by the Rules for Judicial-Conduct and Judicial-Disability Proceedings. See Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Entered as Chief Judge Pursuant to  
28 U.S.C. § 351(c)

A handwritten signature in black ink, appearing to read 'Alice M. Batchelder', written in a cursive style.

Alice M. Batchelder

Date: July 18, 2018